

The Criminal Justice Bureau (CJB) investigates and prosecutes major criminal cases throughout New Hampshire, including homicides, drug trafficking, economic and public integrity crimes, and Medicaid Fraud. It also handles the appeals of all criminal cases tried in New Hampshire courts. The CJB works cooperatively with police agencies statewide. It also works with administrative agencies such as the Department of Revenue and the Department of Health and Human Services to investigate and prosecute crimes unique to the areas within those agencies' purview.

The CJB is staffed by twenty-one attorneys, four investigators, three financial analysts, two paralegals, and seven secretaries. In addition to their prosecutorial responsibilities, the attorneys provide training to members of law enforcement concerning matters of criminal and constitutional law. During the biennium, attorneys taught a series of classes on criminal law

and prosecution at each of the four academies for new police officers at the Police Standards and Training Academy, as well as intermittent courses on subjects such as DWI/motor vehicle law, the New Hampshire Rules of Evidence, and trial techniques. CJB attorneys also provided a series of regional trainings for local law enforcement agencies on topics such as search and seizure and drug forfeitures and sponsored several seminars on criminal law-related matters for New Hampshire prosecutors.

In 2004, under the leadership of the Attorney General's Office, a strategic plan was created to guide the state in its response to cyber crime. The implementation of the State of New Hampshire Strategic Plan to Address Cyber Crime is enhancing public safety through a collaborative approach between federal, state, and local criminal justice agencies to develop sustainable investigations, computer forensics, prosecutions, and outreach and preparedness (Homeland Secu-

rity). Members of the CJB have devoted significant time and effort to this initiative.

The work of the various units within the CJB is described below.

### *The Homicide Prosecution Unit*

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The Homicide Prosecution Unit is staffed by five lawyers, one paralegal and one secretary. Its major functions are to assist law enforcement officers with legal issues that arise during the investigation of suspicious deaths and homicides and to prosecute homicide cases.

At the beginning of the biennium, the Unit had nine active homicide prosecutions pending. Of the nine, five went to trial during the biennium, resulting in four guilty verdicts and one acquittal. Of the remaining four cases, two were resolved by guilty pleas, one is scheduled for trial, and the remaining case is on hold pending the extradition of the defendant from South America.

During the biennium, the Homicide Prosecution Unit supervised the investigation of forty-one declared homicides, as well as several suspicious death cases. Prosecutions were initiated in connection with thirty-one of the homicides, twelve of which are pending. Nine guilty pleas were obtained in connection with eleven of the homicides (one case had multiple victims and one case had multiple defendants), and four defendants were convicted after trial. Of the ten that did not result in criminal charges, seven involved a murder followed by the suicide of the perpetrator, two were police officer-involved shootings, which the CJB determined were the result of the officer's legally justified use of deadly force, and one involved a case that the grand



Assistant Attorney General Karen Huntress uses a mannequin in Sullivan County Superior Court to show the entry and exit points of bullet wounds found during the autopsy of Nicholas Vassar at the murder trial of Ethan Vassar, his brother.

jury chose not to indict. One homicide remains unsolved.

The Unit also participated in the prosecution of three cases with the Carroll County Attorney's Office and the Merrimack County Attorney's Office. Two of the cases involved attempted murder charges, and the third involved a fatal gas line explosion.

### *The Economic Crime Unit*

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The Economic Crime Unit (ECU) prosecutes complex thefts and related crimes. Typical cases involve thefts of at least \$100,000, thefts by fiduciaries of at least \$50,000, or fraudulent acts that have multi-county or statewide impact. The investigation and prosecution of these cases often requires detailed analyses of various financial and business records to trace the disposition of stolen assets and to determine the methods used to steal them. Investigations conducted by the ECU involve the use of investigative grand juries, the execution of search warrants, and the employment of forensic accounting experts. Because the investigation and pretrial preparation of these cases tend to be protracted and the trials lengthy, they require the commitment of extensive staff time and other resources. The ECU's ability to perform forensic accounting analyses was significantly impeded during this biennium due to the elimination of a financial analyst position.

During the biennium, the ECU obtained convictions by either plea or trial in eight cases. Among its cases was the prosecution of Koji Goto of Bedford. After a multi-week trial, Goto was found guilty of 23 theft and securities felonies, involving thefts in excess of \$3,000,000 from ten victims. Goto worked for John Hancock from 1994 through October 2001. His vic-

tims were mostly elderly people who were existing John Hancock clients or who, through Goto's efforts, thought they were John Hancock clients. Goto convinced them that their money would do better in other "John Hancock investments" and, at Goto's urging, they cashed out their existing John Hancock accounts and wrote checks made payable to such entities as "Koji Goto Investor Services" and "John Hancock Financial Services." The money went directly into Goto's own bank accounts. Goto faces an additional 45 charges of theft, securities fraud, witness tampering, and criminal solicitation involving thefts of more than \$11,000,000 from other victims.

### *The Public Integrity Crime Unit*

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The Public Integrity Crime Unit investigates and prosecutes public officials who engage in criminal conduct during the course of their official duties. The conduct typically involves economic crimes, such as embezzling public funds, misuse of an official's position to obtain benefits to which the official would not otherwise be entitled, and crimes of violence or sexual misconduct by public officials.

Like economic crime cases, most public integrity crime cases are complex and require substantial resources to investigate and prosecute. The Unit routinely conducts forensic accounting analyses of government financial records, makes presentations to investigative grand juries, and consults with various experts.

The Unit prosecuted former Bartlett Chief of Police Robert Snow, who pled guilty to one count of theft by unauthorized taking (TBUT) and one count of theft by deception. The TBUT charge stemmed from the chief, acting in his official capacity, receiving a total of approximately

\$30,000 in funds that should have gone to the town, the Bartlett school system, or the state, which included funds from parking tickets, towing and storage fees, police detail work, donations to school programs, witness fees and other sources. The theft by deception charge arose from the chief's solicitation of donations to the D.A.R.E. program from people facing criminal charges, and then keeping the money, which totaled approximately \$2850. The chief was sentenced to 5 to 10 years in prison with three years deferred on the TBUT charge and an additional suspended sentence of 3 ½ to 7 years on the other felony. He was also ordered pay \$32,850 in restitution.

The Public Integrity Crime Unit is responsible for investigating every incident in which a New Hampshire police officer uses deadly force in the course of his or her duties. These investigations typically involve several attorneys responding to the scene, participating in interviews with the officers involved, and reviewing the forensic evidence. The Unit evaluates each incident to determine whether the use of deadly force was legally justified. During the biennium, the Unit responded to three such events.

### *Drug Prosecution Unit*

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The Drug Prosecution Unit plays a lead role in the investigation and prosecution of major drug trafficking activities within the state. The Unit is comprised of three attorneys, a secretary and a paralegal. They work in close cooperation with the Attorney General's Drug Task Force, the New Hampshire State Police Narcotics Investigation Unit (NIU), the Drug Enforcement Administration (DEA), and the specialized drug units within the local police departments. The attorneys prosecute cases on a statewide basis. They are

available to law enforcement agencies twenty-four hours a day to authorize one-party interceptions pursuant to RSA 570-A:2 and to provide assistance and legal guidance on such matters as arrest warrant applications, execution of search warrants, and the proper use of electronic surveillance.

During the biennium, the Drug Prosecution Unit opened 121 new cases, in addition to handling those still pending from the previous biennium. The majority of cases involve conspiracies to distribute, or the actual distribution of, large quantities of cocaine, heroin, marijuana, or other controlled drugs.

The Unit successfully undertook the prosecution of several large-scale drug traffickers during the biennium. For example:

- Brendan Morillo was convicted after trial of three counts of sale of cocaine, involving in excess of 12 ounces of cocaine. He was sentenced to ten to twenty years imprisonment and also received consecutive, suspended sentences;
- Matthew Lolicata was convicted of two counts of the sale of illegal mushrooms, subsequent offense, involving more than eight pounds of mushrooms and for conspiring to possess five pounds or more of marijuana with the intent to sell, subsequent offense. He was sentenced to 5 to 15 years in prison, with the last year of his minimum sentences being suspended if he completes all substance abuse treatment programs recommended for him by the Department of Corrections. The defendant's residence was also subject to a federal forfeiture action;
- Michale Leventis and Leslie Grant were convicted of carrying approximately 131 pounds of marijuana across the Canadian border into Colebrook.

They were each sentenced to the New Hampshire State Prison for seven and half to fifteen years, stand committed, and an additional four and a half years suspended;

- An investigation into the smuggling of drugs into the New Hampshire State Prison resulted in the seizure of more than six grams of cocaine and four grams of heroin. Convictions were obtained against the inmates who were the intended recipients of the drugs, the supplier, and three others involved in the smuggling scheme.

During the last biennium the Drug Unit supervised two electronic surveillance (wiretap) investigations pursuant to the requirements of RSA 570-A. These investigations require constant supervision by the assigned attorney, who must review the affidavits of law enforcement officers, draft the appropriate requests, obtain the court orders authorizing the wiretaps, and ensure that the orders are being implemented in accordance with applicable law.

One such electronic surveillance investigation, supervised by the Drug Prosecution Unit, ran for 78 days on 17 different phone lines. The investigation, which was largely federally funded, was led by the Manchester Police Department, with the assistance of the NIU, United States Immigrations and Customs Enforcement, DEA's High Intensity Drug Trafficking Area Task Force (HIDTA), and the Internal Revenue Service. The investigation led to the arrest of 19 people on drug offenses who are facing charges in various state and federal courts. The case is being prosecuted jointly with the United States Attorney's Office.

The main target of this investigation, Christopher Bouchard, was arrested and charged with being a Drug Enterprise Leader, a crime that carries a minimum

mandatory sentence of 25 years to life imprisonment. The drug enterprise is alleged to have involved the transportation of large quantities of cocaine and marijuana from Arizona to New Hampshire that were then sold throughout the state. It is estimated that more than \$1,000,000 worth of drugs were distributed. The United States Attorney's Office has initiated forfeiture proceedings on more than \$3 million dollars worth of assets that Bouchard and his co-conspirators are alleged to have acquired with drug proceeds.

The Drug Prosecution Unit prosecutes all forfeiture actions under New Hampshire's Controlled Drug Act. Through these prosecutions, the State seizes illicit profits and property in the hands of drug dealers that would otherwise go to facilitate the narcotics trade. Once forfeited, a portion of the value of the property is deposited in the State's general fund and the remainder is used to offset the cost of drug investigations and to fund drug treatment programs. During the last biennium, the Unit handled 34 forfeitures, involving approximately \$281,636.43 in cash, motor vehicles, firearms, and electronics. The most significant action resulted in the voluntary forfeiture of over \$229,000 in cash and a Harley Davidson motorcycle.

### *Drug Task Force*

The New Hampshire Drug Task Force (DTF) is a multi-jurisdictional task force whose primary mission is to enforce the drugs laws of the state and to provide leadership, coordination, and support to all local, county, state and federal law enforcement agencies in combating the drug problem in New Hampshire. DTF is comprised of 29 members, including investigators from the Attorney General's Office and police officers from local, county,

and state police departments. The departments loan police officers to DTF for a period of several years to work as undercover investigators, and use federal grant money to subsidize the officers' salaries. The task force works out of four regional offices covering the seacoast, central, western, and northern areas of the state.

During the biennium, DTF was involved in 1446 criminal investigations, leading to 338 arrests.

In addition, DTF was involved in three out-of-state cases that involved drug trafficking across the Maine and Massachusetts borders.

Over the course of the biennium, DTF investigators seized \$736,000 in cash proceeds of drug trafficking, 9 motor vehicles, and 38 weapons. DTF also made available more than 5,000 hours of training to its investigators and local law enforcement officers. It jointly sponsored several in-state regional training programs with DEA and provided funding for officers to attend training seminars and schools both in and out-of-state.

### *Appellate Unit*

The Appellate Unit represents the State on all appeals from state criminal convictions, both in the New Hampshire Supreme Court and the federal court system. Approximately 88% of the unit's work involves cases before the New Hampshire Supreme Court, where the great majority of its work involves defending a State criminal conviction against a challenge by the person who was convicted. However, it also initiates a limited number of appeals on behalf of the State, which typically involve a challenge to a trial court's ruling dismissing a criminal charge or suppressing evidence critical to the prosecution. The work of the Appellate Unit is central to the development of the criminal

law in this State and regularly addresses issues of importance to the general public.

During the last two years, the Appellate Unit had a staff of three full-time attorneys and one half-time attorney. For each appeal, an attorney must research the applicable law and write a legal brief in support of the State's position. With relatively rare exceptions, an attorney must also appear before the appellate court to present an oral argument.

During the biennium, the Unit filed 229 legal briefs and/or memoranda on behalf of the State with the New Hampshire Supreme Court, and five briefs with the United States Court of Appeals for the First Circuit. This was an increase of approximately 13% from the previous biennium. Because the appellate workload far exceeded that which could be completed by the Unit staff, attorneys from other sections of the Criminal Justice Bureau were called on to handle appellate cases as well.

The number of federal habeas corpus petitions filed by incarcerated defendants has increased significantly. The Bureau responded to 28 such petitions in the United States District Court during the biennium.

In addition to handling their general caseload, the attorneys in the Appellate Unit are regularly called upon to advise local prosecutors concerning on-going prosecutions. The attorneys provide information on the current status of New Hampshire criminal law, suggest strate-

gies to approach legal issues, and offer assistance in dealing with an adverse ruling of the trial court.

### *Medicaid Fraud Control Unit*

The Medicaid Fraud Control Unit (Unit) has statewide jurisdiction to investigate and prosecute fraudulent and abusive practices in the provision of health care services to New Hampshire Medicaid recipients. The Unit has a second, and equally vital, responsibility—the investigation and prosecution of cases involving crimes against residents of New Hampshire's nursing and assisted living facilities. Such cases encompass physical abuse, sexual assault, emotional abuse, neglect, and financial exploitation.

The Unit is comprised of an eight-person team that includes two attorneys, three financial analysts/auditors, two investigators, and one legal assistant. The Unit receives 75% federal funding for its operations.

#### **The Medicaid Program**

The Medicaid program, which was enacted in 1965, covers three main groups of low-income Americans: (1) parents and

### **New Hampshire Drug Task Force** July 1, 2003 to June 30, 2005

County	Cases	Arrests	Indictments
Belknap	94	29	10
Merrimack	147	27	23
Hillsborough	330	46	3
Cheshire	107	29	13
Sullivan	108	34	7
Rockingham	207	61	27
Strafford	267	47	40
Grafton	96	45	10
Coos	80	19	16
Carroll	10	1	0
<b>Totals</b>	<b>1446</b>	<b>338</b>	<b>149</b>



children, (2) the elderly, and (3) the disabled.

Unlike Medicare, which is administered and financed exclusively by the federal government, Medicaid is a joint venture between states and the federal government. While the federal government must approve each state's Medicaid program, the states are responsible for day-to-day administration. The federal government's financial commitment to a state's Medicaid program depends on the state's per capita income. New Hampshire's federal participation rate in New Hampshire is 50%, a figure that has remained constant for several years.

#### Medicaid Provider Fraud

The Unit has an array of statutory remedies at its disposal to prosecute cases involving fraudulent and abusive billing practices of Medicaid service providers, ranging from criminal enforcement to administrative sanctions.

The Unit can also proceed with civil enforcement against a provider pursuant to RSA 167:61-(b-e) to recover damages caused by the provider's submission of

false claims. Under this statute, the State can recoup its losses and impose punitive economic sanctions against the recalcitrant provider.

#### Patient Abuse and Financial Exploitation

There are 89 licensed nursing facilities and 139 assisted living facilities, which collectively represent home for almost 1% of the state's population. Of the more than 7,000 individuals residing in the state's nursing facilities, approximately 64% are covered under Medicaid. The Unit investigates and prosecutes those who abuse or financially exploit the vulnerable adults living in these settings.

The majority of the Unit's investigations and prosecutions originate as referrals from the New Hampshire Long Term Care Ombudsman Program (LTCOP) and the New Hampshire Division of Elderly and Adult Services (DEAS). The Unit also investigates reports received directly from other state agencies, law enforcement and private citizens.

Cases are also referred to the Unit through the twelve DHHS district offices around the state

that review Medicaid applications for long-term care coverage. Applicants must provide full financial disclosures so that the caseworker can determine whether the applicant is financially eligible for Medicaid coverage. Federal law imposes certain limitations on financial eligibility based

on asset transfers that occur prior to the filing of an application. Often, the Medicaid application is prepared by the applicant's authorized representative under a durable power of attorney executed pursuant to RSA 506:7. If the caseworker's financial investigation reveals information that the authorized representative has possibly diverted the applicant's assets before seeking Medicaid, then the information will be referred to the Unit for further investigation.

#### Summary Of Medicaid Fraud Unit Activities

During the period July 1, 2003 to June 30, 2005, the investigation and prosecution efforts of the Unit resulted in the issuance of thirty-one charges against thirteen individuals and one corporation. Ten were convicted during the same period and prosecutions are pending against the other four.

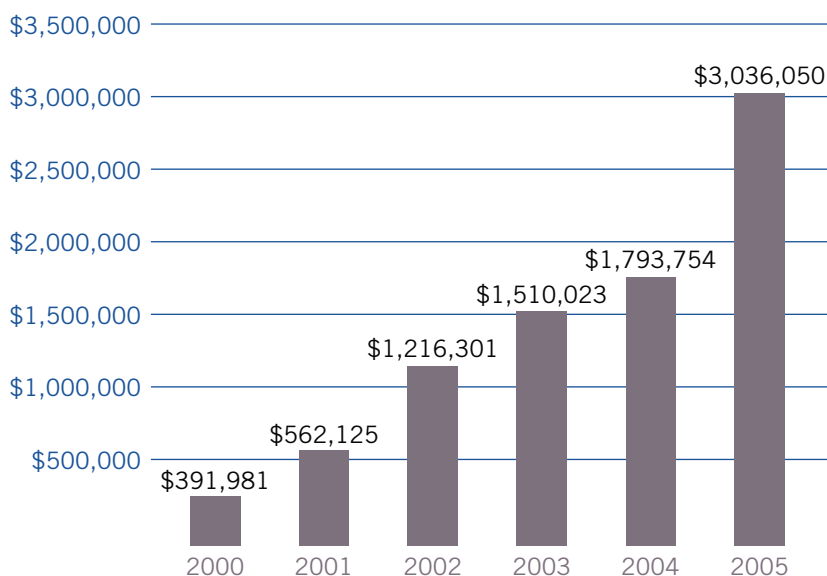
For the biennium, monetary recoveries, fines, and penalties from all cases totaled \$4,829,804. Of that amount, \$3,055,963 represents recoveries to the Medicaid Program. Patient funds restitution in financial exploitation cases (civil and criminal) totaled \$153,228. The chart on the previous page reflects the Unit's efforts during the past six years.

The following are examples of health care fraud cases that the Unit concluded during the biennium.

- State v. Stanley A. Gorgol, D.P.M., Inc. This podiatry practice pled guilty to the crime of Medicaid Fraud and paid restitution of \$18,330. The company filed more than 80 fraudulent claims to obtain reimbursement for orthotic foot devices furnished to Medicaid recipients. In addition, both the company and Dr. Gorgol, individually, entered a civil settlement under which Gorgol

#### Recoveries, Fines and Penalties

Per State Fiscal Year  
July 1 to June 30



paid the State an additional \$40,000 for civil penalties and investigative costs. Gorgol was also terminated as a Medicaid provider.

- **State v. Schering-Plough.** The defendant, as part of a national settlement that the Department of Justice joined, paid the State \$1,181,041 for damages caused by the company's failure to accurately report its "best price" information for the drug Claritin. Under federal law, companies that provide pharmaceutical products to Medicaid recipients must provide the best price information, which is used to calculate rebates payable to state Medicaid programs.
- **State v. Genesis Healthcare.** The provider paid the State \$117,071 to reimburse the Medicaid Program for allegedly deficient record-keeping practices at two of its New Hampshire nursing facilities.

An example of a patient abuse and financial exploitation case that the Unit handled during the biennium:

- **State v. Huffman.** The defendant was convicted of felony theft for stealing more than \$33,000 in military pension and Social Security income from his father while his father resided at a nursing facility. The defendant was sentenced to one year in prison and ordered to pay full restitution.

The Medicaid Fraud Unit engaged in several initiatives during the biennium. It successfully spearheaded a legislative proposal that overhauled New Hampshire's civil Medicaid False Claims statute. The new statute allows private parties to sue on the state's behalf to recover damages and penalties based on the submission of false claims to the state Medicaid agency. The "relator's" suit must be filed under seal and

served on the Attorney General to allow the state the opportunity to investigate and determine whether to intervene. The goal of the legislation is to encourage individuals to report fraud to the Medicaid program by allowing the relator to obtain a share of any recovery that results from the litigation.

The Unit, in cooperation with the LTCOP and DEAS, published recommended procedures for long-term facilities to follow in cases involving the suspected financial exploitation of facility residents by authorized representatives and fiduciaries. The Unit also developed a proposed curriculum for use at the state's police training academy that focuses specifically on investigating abuse and exploitation of elderly and impaired adults.

### *Office of Victim/ Witness Assistance*

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The criminal justice system can be confusing and intimidating to people who are drawn into the system as a result of having been a victim of, or witness to a violent crime. The mission of the State Office of Victim/Witness Assistance is to ensure that such individuals are treated with dignity and respect.

The Office is staffed by the Director, an administrative assistant, a criminal justice specialist and two victim/witness advocates who are on-call 24 hours a day. Whenever a homicide occurs within the state, one of the advocates is responsible for responding to the scene to notify the victim's family of the death of their loved one and to provide immediate crisis intervention and support to family members and witnesses to the crime. The advocate continues to work closely with the family during the painful aftermath, providing a wide range of services which may include arranging for the cleanup

of the homicide scene, informing the family of the results of the autopsy, assisting them with funeral arrangements, and explaining the process of a death investigation.

The advocate will continue to provide support and services to the family as the case progresses. Those services include educating the family about the court process, providing case status reports, accompanying family members to court hearings and, if necessary, intervening with an employer, school or creditor. Advocates may also assist a family in securing the return of property being held by the police or obtaining compensation from the Victim's Compensation Commission for crime-related expenses. If a family requires services beyond the scope of the Office, the advocate will make referrals to other community agencies that can meet those needs. The advocate's involvement with a family does not end with the disposition of the criminal case, but may continue for years, throughout the post-conviction, sentence suspension/review, and parole hearings.

The advocates also work with hundreds of witnesses each year. They schedule court appearances so as to minimize any inconvenience to the witness, explain the court process and assist the witness in obtaining their statutory witness fee.

From its inception in 1990 through June 30, 2005, the Office has responded to 307 homicides, of which 49% were domestic violence related. During the 2004-2005 biennium, the Office responded to 39 homicides, of which 27, or 70% were domestic violence related. During the biennium, advocates also provided services in 22 non-homicide cases involving domestic violence and sexual assault cases, white-collar crimes and other death investigations.

The Office is also involved in a variety of statewide activities aimed at standardizing the delivery of services and support to victims of crime in New Hampshire. The staff consults with, and provides training to the county victim/witness advocates on a regular basis to ensure the comprehensive delivery of services. They also respond to calls and requests from New Hampshire citizens by providing intervention and referral services.

The Director of the Office represents the Attorney General on numerous committees and statewide initiatives including:

(1) Chair of the Sexual Assault Protocol Committee, which published the first state protocol on the medical response to sexual assault cases and provided multidisciplinary regional training on the protocol to over 2500 professionals. The Committee also developed a standardized

sexual assault forensic evidence collection kit, which is used in every hospital in the state.

(2) Chair of the Governor's Commission Domestic Violence Protocol Committee, which created protocols designed to promote an effective community response to domestic violence. Protocols were developed for individuals in a variety of disciplines, including law enforcement, medical, mental health, probation and parole, the judiciary, victim services, home health care providers, clergy and educators. During the most recent biennium, the Committee trained 800 professionals statewide on the use of the revised protocols.

The Office is involved in a State Child Advocacy Center (CAC) Project, the objective of which is to establish a CAC in each county, with the ultimate goal of standardizing the handling of child abuse and neglect cases

and minimizing the trauma to the child victim.

The Attorney General's Office is responsible for administering the New Hampshire Address Confidentiality Program (ACP), which was created in 2001 to enable people escaping from violent situations to hide their location from their assailant. The ACP sets up a substitute address that participants can use to receive services such as obtaining a driver's license, registering a car or applying to vote as an absentee voter. Mail sent to this substitute address is then forwarded to the participants by the Office, thus keeping their location confidential. Since its creation, 114 people have registered with the program and from July 1, 2003 to July 30, 2005, 4487 pieces of mail were forwarded to participants.

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**The value of the advocates' services is reflected in the following excerpts from letters that the advocates have received from families of homicide victims:**

*"When we were sent a tragedy in our lives, we were also sent special people to help us get through it."*

*"It must have been so hard for you to come and tell us such terrible news but you were so compassionate and caring and it helped us in trying to accept it."*

*"We know that there will be a lot of rough times ahead...but knowing we have caring people like yourself and everyone else on this case, helps us to accept our son's death and go on."*

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